

House Study Bill 638 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
TRANSPORTATION BILL)

A BILL FOR

1 An Act modifying allocations from the statutory allocations
2 fund, creating the Iowa tanks fund and Iowa tanks fund
3 financing program, repealing a tax credit, making transfers
4 and appropriations, and including transition and effective
5 date provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I
2 UNDERGROUND STORAGE TANK FUND AND RENEWABLE FUEL INFRASTRUCTURE
3 FUND ALLOCATIONS — UNDERGROUND STORAGE TANKS REMEDIAL ACTION
4 TAX CREDIT AND CLAIMS

5 Section 1. Section 321.145, subsection 2, paragraph a, Code
6 2016, is amended by striking the paragraph.

7 Sec. 2. Section 321.145, subsection 2, paragraph b, Code
8 2016, is amended to read as follows:

9 ~~b. Moneys remaining after the operation of paragraph "a"~~
10 shall be credited in order of priority as follows:

11 (1) An amount equal to four percent of the revenue from the
12 operation of [section 321.105A, subsection 2](#), shall be credited
13 to the department, to be used for purposes of public transit
14 assistance under [chapter 324A](#).

15 (2) An amount equal to two dollars per year of license
16 validity for each issued or renewed driver's license which is
17 valid for the operation of a motorcycle shall be credited to
18 the motorcycle rider education fund established under section
19 321.179.

20 (3) The amounts required to be transferred pursuant to
21 section 321.34 from revenues available under [this subsection](#)
22 shall be transferred and credited as provided in section
23 321.34, subsections 7, 10, 10A, 11, 11A, 11B, 13, 16, 17,
24 18, 19, 20, 20A, 20B, 20C, 21, 22, 23, 24, 25, and 26 for the
25 various purposes specified in those subsections.

26 Sec. 3. NEW SECTION. 427B.23 Repeal.

27 This division is repealed July 1, 2016.

28 Sec. 4. NEW SECTION. 455G.22 Eligible claims and date.

29 A claim for a release filed after December 31, 2016, shall
30 not be eligible for payment from the Iowa comprehensive
31 petroleum underground storage tank fund.

32 DIVISION II

33 IOWA TANKS FUND FINANCING PROGRAM — UNDERGROUND STORAGE TANK
34 FUND REPEAL

35 Sec. 5. NEW SECTION. 16.145 Definitions.

1 As used in this part:

2 1. "*Claimant*" means an owner or operator who has received
3 assistance under the Iowa tanks fund or its predecessor, the
4 Iowa comprehensive petroleum underground storage tank fund
5 created in chapter 455G, Code 2017.

6 2. "*Costs*" means all costs, charges, expenses, or other
7 indebtedness incurred by a claimant and determined by the
8 department as reasonable and necessary for carrying out
9 all works and undertakings necessary or incidental to the
10 accomplishment of any project.

11 3. "*Department*" means the department of natural resources
12 created in section 455A.2.

13 4. "*Director*" means the director of the department of
14 natural resources.

15 5. "*Program*" means the Iowa tanks fund financing program
16 created pursuant to section 455B.472A.

17 Sec. 6. NEW SECTION. 16.146 Iowa tanks fund financing
18 program.

19 1. The authority shall cooperate with the department in the
20 creation, administration, and financing of the program.

21 2. The authority shall administer the Iowa tanks fund
22 created in section 455B.472A to carry out the purposes of
23 the program and shall manage the funding, administration,
24 investment, restrictions, and disposition of the fund.

25 3. The authority shall work cooperatively with the director
26 to distribute financial assistance for work conducted by
27 eligible entities that comply with the requirements of the
28 program. The department shall determine if work completed is
29 eligible for reimbursement from the Iowa tanks fund created for
30 the program.

31 Sec. 7. Section 68B.35, subsection 2, paragraph e, Code
32 2016, is amended to read as follows:

33 e. Members of the state banking council, the ethics and
34 campaign disclosure board, the credit union review board, the
35 economic development authority, the employment appeal board,

1 the environmental protection commission, the health facilities
2 council, the Iowa finance authority, the Iowa public employees'
3 retirement system investment board, the board of the Iowa
4 lottery authority, the natural resource commission, the board
5 of parole, ~~the petroleum underground storage tank fund board,~~
6 the public employment relations board, the state racing and
7 gaming commission, the state board of regents, the tax review
8 board, the transportation commission, the office of consumer
9 advocate, the utilities board, the Iowa telecommunications
10 and technology commission, and any full-time members of other
11 boards and commissions as defined under [section 7E.4](#) who
12 receive an annual salary for their service on the board or
13 commission. The Iowa ethics and campaign disclosure board
14 shall conduct an annual review to determine if members of any
15 other board, commission, or authority should file a statement
16 and shall require the filing of a statement pursuant to rules
17 adopted pursuant to [chapter 17A](#).

18 Sec. 8. Section 159A.11, subsection 10, Code 2016, is
19 amended by striking the subsection.

20 Sec. 9. Section 159A.13, subsection 6, Code 2016, is amended
21 by striking the subsection.

22 Sec. 10. Section 159A.14, subsection 2, Code 2016, is
23 amended to read as follows:

24 2. A person may apply to the department to receive financial
25 incentives on a cost-share basis. ~~The department shall forward~~
26 ~~the applications to the underground storage tank fund board as~~
27 ~~required by that board for evaluation and recommendation. The~~
28 ~~underground storage tank fund board may rank the applications~~
29 ~~with comments and shall forward them to the infrastructure~~
30 ~~board for approval or disapproval.~~ The department shall award
31 financial incentives on a cost-share basis to an eligible
32 person whose application was approved by the infrastructure
33 board.

34 Sec. 11. Section 159A.15, subsection 1, Code 2016, is
35 amended to read as follows:

1 1. A person may apply to the department to receive financial
2 incentives on a cost-share basis. ~~The department shall forward~~
3 ~~the applications to the underground storage tank fund board as~~
4 ~~required by that board for evaluation and recommendation. The~~
5 ~~underground storage tank fund board may rank the applications~~
6 ~~with comments and shall forward them to the infrastructure~~
7 ~~board for approval or disapproval.~~ The department shall award
8 financial incentives on a cost-share basis to an eligible
9 person whose application was approved by the infrastructure
10 board.

11 Sec. 12. Section 323.1, subsection 16, Code 2016, is amended
12 to read as follows:

13 16. "*Storage tank*" means a motor fuel storage tank as
14 defined in [section 214.1](#), ~~including an underground storage tank~~
15 ~~subject to regulation under [chapter 455G](#).~~

16 Sec. 13. Section 422.7, subsection 2, paragraph u, Code
17 2016, is amended by striking the paragraph.

18 Sec. 14. Section 455B.174, subsection 4, paragraph d, Code
19 2016, is amended to read as follows:

20 d. If a public water supply has a groundwater source
21 that contains petroleum, a fraction of crude oil, or their
22 degradation products, or is located in an area deemed by the
23 department as likely to be contaminated by such materials, and
24 after consultation with the public water supply system and
25 consideration of all applicable rules relating to remediation,
26 the department may require the public water supply system to
27 replace that groundwater source in order to receive a permit
28 to operate. The requirement to replace the source shall only
29 be made by the department if the public water supply system
30 is fully compensated for any additional design, construction,
31 operation, and monitoring costs from the Iowa ~~comprehensive~~
32 ~~petroleum underground storage tank tanks~~ fund created by
33 ~~[chapter 455G](#)~~ [section 455B.472A](#) or from any other funds that do
34 not impose a financial obligation on the part of the public
35 water supply system. Funds available to or provided by the

1 public water supply system may be used for system improvements
2 made in conjunction with replacement of the source. The
3 department cannot require a public water supply system to
4 replace its water source with a less reliable water source or
5 with a source that does not meet federal primary, secondary, or
6 other health-based standards unless treatment is provided to
7 ensure that the drinking water meets these standards. Nothing
8 in this paragraph shall affect the public water supply system's
9 right to pursue recovery from a responsible party.

10 Sec. 15. Section 455B.471, Code 2016, is amended by adding
11 the following new subsections:

12 NEW SUBSECTION. 01. "*Authority*" means the Iowa finance
13 authority.

14 NEW SUBSECTION. 1A. "*Claimant*" means an owner or operator
15 who has received assistance under the Iowa tanks fund or its
16 predecessor, the Iowa comprehensive petroleum underground
17 storage tank fund created in chapter 455G, Code 2017.

18 NEW SUBSECTION. 2A. "*Costs*" means all costs, charges,
19 expenses, or other indebtedness incurred by a claimant and
20 determined by the department as reasonable and necessary for
21 carrying out all works and undertakings necessary or incidental
22 to the accomplishment of any project.

23 NEW SUBSECTION. 3A. "*Insurance*" means any form of financial
24 assistance or showing of financial responsibility sufficient
25 to comply with the federal Resource Conservation and Recovery
26 Act, 42 U.S.C. §6901 et seq., or the department's underground
27 storage tank financial responsibility rules.

28 NEW SUBSECTION. 7A. "*Potentially responsible party*" means a
29 person who may be responsible or liable for a release for which
30 the fund has made payments for corrective action or third-party
31 liability.

32 NEW SUBSECTION. 9A. "*Tank*" means an underground storage
33 tank for which proof of financial responsibility is, or on a
34 date definite will be, required to be maintained pursuant to
35 the federal Resource Conservation and Recovery Act and the

1 regulations from time-to-time adopted pursuant to that Act or
2 successor Acts or amendments.

3 NEW SUBSECTION. 10A. *"Third-party liability"* means both of
4 the following:

5 a. Property damage including physical injury to tangible
6 property, but not including loss of use, other than costs to
7 remediate.

8 b. Bodily injury including sickness, bodily injury, illness,
9 or death.

10 Sec. 16. Section 455B.471, subsection 1, Code 2016, is
11 amended by striking the subsection.

12 Sec. 17. Section 455B.471, subsection 3, Code 2016, is
13 amended to read as follows:

14 3. *"Fund"* means the Iowa ~~comprehensive petroleum underground~~
15 ~~storage tank tanks~~ fund created in section 455B.472A.

16 Sec. 18. NEW SECTION. **455B.472A Iowa tanks fund financing**
17 **program — fund created.**

18 1. The department, in cooperation with the authority,
19 shall establish and administer an Iowa tanks fund financing
20 program for the purpose of reimbursing underground storage tank
21 owners for all or part of the costs of corrective action for
22 previously unknown petroleum releases. The department and the
23 authority may together enter into and provide any agreements,
24 documents, instruments, certificates, data, or information
25 necessary in connection with the operation, administration,
26 and financing of the program consistent with this part, the
27 federal Resource Conservation and Recovery Act, 42 U.S.C.
28 §6901 et seq., the rules of the commission, the rules of the
29 authority, and other applicable federal and state law. The
30 authority and the department may act to conform the program to
31 the applicable guidance and regulations adopted by the United
32 States environmental protection agency.

33 2. An Iowa tanks fund is created in the state treasury
34 under the control of the authority and consisting of moneys
35 appropriated or transferred to the fund, cost recovery

1 enforcement moneys collected pursuant to section 455B.472B,
2 civil enforcement moneys recovered pursuant to section
3 455B.477, interest attributable to moneys in the fund, moneys
4 in the form of a devise, gift, bequest, donation, federal or
5 other grant, reimbursement, repayment, judgment, or payment
6 from any source intended to be used for the purposes of the
7 fund, all receipts by the fund, and any other moneys credited
8 to the fund from any public or private source. Notwithstanding
9 section 12C.7, subsection 2, interest or earnings on moneys in
10 the Iowa tanks fund shall be credited to the Iowa tanks fund.

11 3. Moneys in the Iowa tanks fund shall be used to reimburse
12 tank owners for all or part of the costs of a corrective action
13 for a petroleum release, and for administrative costs of the
14 department.

15 4. Moneys in the Iowa tanks fund are not considered part of
16 the general fund of the state, are not subject to appropriation
17 for any other purpose by the general assembly, and the balance
18 of the Iowa tanks fund shall not be considered part of the
19 balance of the general fund of the state. The fund is a
20 separate dedicated fund under the administration and control of
21 the authority as provided under section 16.146.

22 5. The state, the general fund of the state, and all other
23 funds of the state other than the Iowa tanks fund are not
24 liable for a claim or cause of action in connection with a tank
25 not owned or operated by the state, or agency of the state.
26 All expenses incurred by the fund are payable solely from the
27 fund and no liability or obligation is imposed upon the state.
28 The liability of the fund is limited to the extent of coverage
29 provided by the applicable account within the fund under which
30 a claim is submitted, subject to the terms and conditions of
31 that coverage. The liability of the fund is further limited by
32 the moneys made available to the fund, and no remedy shall be
33 ordered which would require the fund to exceed its then current
34 funding limitations to satisfy an award or which would restrict
35 the availability of moneys for higher priority sites. The

1 state is not liable for a claim presented against the fund.

2 6. The department shall prioritize uses of the moneys in the
3 fund based upon rules adopted by the commission in cooperation
4 with the authority. Department discretion for use of the
5 moneys in the fund shall not be subject to section 455B.478.

6 7. *a.* For the fiscal year beginning July 1, 2017, and each
7 fiscal year thereafter, there is appropriated from the Iowa
8 tanks fund to the department two hundred thousand dollars to
9 support the administration of the fund.

10 *b.* Notwithstanding section 8.33, moneys appropriated in this
11 subsection that remain unencumbered or unobligated at the close
12 of the fiscal year shall not revert but shall remain available
13 for expenditure for the purposes designated until the close of
14 the succeeding fiscal year.

15 *c.* This subsection is repealed July 1, 2022.

16 Sec. 19. NEW SECTION. **455B.472B Cost recovery enforcement.**

17 1. *Full recovery sought from owner.* The department may seek
18 full recovery from the owner, operator, or other potentially
19 responsible party liable for the released petroleum which is
20 the subject of a corrective action, for which the Iowa tanks
21 fund expends moneys, or for which the former Iowa comprehensive
22 petroleum underground storage tank fund established pursuant
23 to section 455G.3, Code 2017, expended moneys, for corrective
24 action or third-party liability, and for all other costs,
25 including reasonable attorney fees and costs of litigation for
26 which moneys are expended by the fund in connection with the
27 release. When federal cleanup funds are recovered, the federal
28 cleanup funds shall be used solely for the purpose of future
29 cleanup activities.

30 2. *Limitation of liability of owner or operator.* Except
31 as provided in subsection 3, the department shall not seek
32 recovery for expenses in connection with corrective action for
33 a release from an owner or operator eligible for assistance
34 under the Iowa tanks fund except for any unpaid portion of the
35 deductible or copayment. This section does not affect any

1 authorization of the department to impose or collect civil or
2 administrative fines or penalties or fees. The fund shall not
3 be held liable for any third-party liability.

4 3. *Owner or operator not in compliance, subject to full*
5 *and total cost recovery.* Notwithstanding subsection 2, the
6 liability of an owner or operator shall be the full and total
7 costs of corrective action and bodily injury or property damage
8 to third parties, as specified in subsection 1, if the owner or
9 operator has not complied with the financial responsibility or
10 other underground storage tank rules of the department or with
11 this part and rules adopted under this part.

12 4. *Treble damages for certain violations.*

13 a. Notwithstanding subsections 2 and 3, the owner or
14 operator, or both, of a tank are liable to the Iowa tanks fund
15 for punitive damages in an amount equal to three times the
16 amount of any cost incurred or moneys expended by the fund as a
17 result of a release of petroleum from the tank if the owner or
18 operator did any of the following:

19 (1) Failed, without sufficient cause, to respond to a
20 release of petroleum from the tank upon, or in accordance with,
21 a notice issued by the director of the department.

22 (2) After May 5, 1989, failed to perform any of the
23 following:

24 (a) Failed to register the tank, which was known to exist or
25 reasonably should have been known to exist.

26 (b) Intentionally failed to report a known release.

27 b. The punitive damages imposed under this subsection are in
28 addition to any costs or expenditures recovered from the owner
29 or operator pursuant to this part and in addition to any other
30 penalty or relief provided by this part or any other law.

31 c. However, the state, a city, county, or other political
32 subdivision shall not be liable for punitive damages.

33 5. *Lien on tank site.* Any amount for which an owner
34 or operator is liable to the Iowa tanks fund, if not paid
35 when due, by statute, rule, or contract, or determination of

1 liability by the department after hearing, shall constitute
2 a lien upon the real property where the tank, which was the
3 subject of corrective action, is situated, and the liability
4 shall be collected in the same manner as the environmental
5 protection charge pursuant to section 424.11, Code 2016.

6 6. *Joinder of parties.* The department has standing in any
7 case or contested action related to the Iowa tanks fund or a
8 tank to assert any claim that the department may have regarding
9 the tank at issue in the case or contested action. Upon
10 motion and sufficient showing by a party to a cost recovery or
11 subrogation action provided for under this section, the court
12 or the administrative law judge shall join to the action any
13 potentially responsible party who may be liable for costs and
14 expenditures of the type recoverable pursuant to this section.

15 7. *Strict liability.* The standard of liability for a
16 release of petroleum or other regulated substance is strict
17 liability.

18 8. *Third-party contracts not binding on department*
19 *— proceedings against responsible party.* An insurance,
20 indemnification, hold harmless, conveyance, or similar
21 risk-sharing or risk-shifting agreement shall not be effective
22 to transfer any liability for costs recoverable under this
23 section. The department may proceed directly against the
24 owner or operator or other allegedly responsible party.
25 This section does not bar any agreement to insure, hold
26 harmless, or indemnify a party to the agreement for any costs
27 or expenditures under this part, and does not modify rights
28 between the parties to an agreement, except to the extent the
29 agreement shifts liability to an owner or operator eligible
30 for assistance under the Iowa tanks fund for any damages or
31 other expenses in connection with a corrective action for which
32 another potentially responsible party is or may be liable. Any
33 such provision is null and void and of no force or effect.

34 9. *Later proceedings permitted against other parties.* The
35 entry of judgment against a party to the action does not bar

1 a future action by the department against another person who
2 is later alleged to be or discovered to be liable for costs
3 and expenditures paid by the Iowa tanks fund. Notwithstanding
4 section 668.5, a potentially responsible party shall not seek
5 contribution or any other recovery from an owner or operator
6 eligible for assistance under the fund for damages or other
7 expenses in connection with corrective action for a release for
8 which the potentially responsible party is or may be liable.
9 Subsequent successful proceedings against another party shall
10 not modify or reduce the liability of a party against whom
11 judgment has been previously entered.

12 10. *Claims against potentially responsible parties.*

13 a. Upon payment by the Iowa tanks fund for corrective
14 action or third-party liability pursuant to this part, the
15 rights of the claimant to recover payment from any potentially
16 responsible party are assumed by the department to the extent
17 paid by the fund. A claimant is precluded from receiving
18 double compensation for the same injury.

19 b. In an action brought pursuant to this part seeking
20 damages for corrective action or third-party liability, the
21 court shall permit evidence and argument as to the replacement
22 or indemnification of actual economic losses incurred or to be
23 incurred in the future by the claimant by reason of insurance
24 benefits, governmental benefits or programs, or from any other
25 source.

26 c. A claimant may elect to permit the department to
27 pursue the claimant's cause of action for any injury not
28 compensated by the Iowa tanks fund against any potentially
29 responsible party, provided the attorney general determines
30 such representation would not be a conflict of interest. If
31 a claimant so elects, the department's litigation expenses
32 shall be shared on a pro rata basis with the claimant, but the
33 claimant's share of litigation expenses is payable exclusively
34 from any share of the settlement or judgment payable to the
35 claimant.

1 11. *Exclusion of punitive damages.* The Iowa tanks fund
2 shall not be liable in any case for punitive damages.

3 Sec. 20. Section 455B.474, subsection 1, paragraph a,
4 subparagraph (6), subparagraph divisions (g), (i), and (j),
5 Code 2016, are amended to read as follows:

6 (g) An owner or operator may elect to proceed with
7 additional corrective action on the site. However, any
8 action taken in addition to that required pursuant to this
9 subparagraph (6), shall be solely at the expense of the owner
10 or operator and shall not be considered corrective action
11 for purposes of [section 455G.9 455B.472A](#), unless otherwise
12 previously agreed to by the ~~board~~ department and the owner or
13 operator pursuant to [section 455G.9, subsection 7 455B.472A](#).
14 Corrective action taken by an owner or operator due to the
15 department's failure to meet the time requirements provided in
16 subparagraph division (e) shall be considered corrective action
17 for purposes of [section 455G.9 455B.472A](#).

18 (i) Replacement or upgrade of a tank on a site classified
19 as a high or low risk site shall be equipped with a secondary
20 containment system with monitoring of the space between the
21 primary and secondary containment structures or other ~~board~~
22 ~~approved~~ department-approved tank system or methodology.

23 (j) The commission and the ~~board~~ department shall cooperate
24 to ensure that remedial measures required by the corrective
25 action rules adopted pursuant to this subparagraph (6) are
26 reasonably cost-effective and shall, to the fullest extent
27 possible, avoid duplicating and conflicting requirements.

28 Sec. 21. Section 455B.474, subsection 9, paragraph d, Code
29 2016, is amended to read as follows:

30 d. The certification of groundwater professionals shall not
31 impose liability on the ~~board, the department,~~ or the fund for
32 any claim or cause of action of any nature, based on the action
33 or inaction of a groundwater professional certified pursuant
34 to [this subsection](#).

35 Sec. 22. Section 455B.474, Code 2016, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 11. Prioritization for use of moneys from
3 the Iowa tanks fund for corrective action to address releases
4 from petroleum underground storage tanks.

5 Sec. 23. Section 455B.475, Code 2016, is amended by adding
6 the following new subsections:

7 NEW SUBSECTION. 4. Assure that in combination with existing
8 state statutes and rules governing underground storage tanks,
9 the state will be, and continue to be, recognized by the
10 federal government as having an "approved state account" under
11 the federal Resource Conservation and Recovery Act, 42 U.S.C.
12 §6921-6934, especially by compliance with the Act's subtitle I
13 financial responsibility requirements as enacted in the federal
14 Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C.
15 §9601 et seq., and the financial responsibility regulations
16 adopted by the United States environmental protection agency at
17 40 C.F.R. pts. 280 and 281. Whenever possible, this part shall
18 be interpreted to further the purposes of, and to comply and
19 not to conflict with, such federal requirements.

20 NEW SUBSECTION. 5. Coordinate with the Iowa finance
21 authority to process, review, and pay claims under the Iowa
22 tanks fund financing program established in section 455B.472A.

23 Sec. 24. Section 455B.477, subsection 7, Code 2016, is
24 amended to read as follows:

25 7. The civil penalties or other damages or moneys recovered
26 by the state ~~or the petroleum underground storage tank fund~~
27 in connection with a petroleum underground storage tank under
28 this part of ~~this division~~ ~~or chapter 455G~~ shall be credited
29 to the Iowa tanks fund created in section ~~455G.3~~ ~~and allocated~~
30 ~~between fund accounts according to the fund budget~~ 455B.472A.
31 Any federal moneys, including but not limited to federal
32 underground storage tank trust fund moneys, received by the
33 state or the department of natural resources in connection
34 with a release occurring on or after May 5, 1989, or received
35 generally for underground storage tank programs on or after

1 May 5, 1989, shall be credited to the fund created in section
2 ~~455G.3 and allocated between fund accounts according to the~~
3 ~~fund budget, unless such use would be contrary to federal~~
4 ~~law. The department shall cooperate with the board of the~~
5 ~~Iowa comprehensive petroleum underground storage tank fund to~~
6 ~~maximize the state's eligibility for and receipt of federal~~
7 ~~funds for underground storage tank related purposes~~ 455B.472A.

8 Sec. 25. Section 455B.478, Code 2016, is amended to read as
9 follows:

10 **455B.478 Judicial review.**

11 Except as provided in section 455B.477, subsection 5, and
12 section 455B.472A, judicial review of an order or other action
13 of the commission or the director may be sought in accordance
14 with chapter 17A. Notwithstanding chapter 17A, the Iowa
15 administrative procedure Act, petitions for judicial review
16 may be filed in the district court of the county in which the
17 alleged offense was committed or the final order was entered.

18 Sec. 26. Section 455E.11, subsection 2, paragraph d,
19 subparagraph (3), Code 2016, is amended by striking the
20 subparagraph.

21 Sec. 27. NEW SECTION. **455G.22A Future repeal.**

22 This subchapter is repealed July 1, 2017.

23 Sec. 28. Section 455I.2, subsection 5, paragraph a, Code
24 2016, is amended to read as follows:

25 a. A federal or state program that is subject to the
26 jurisdiction of an agency, including but not limited to
27 programs established by chapters chapter 455B and 455G section
28 455B.472A, corrective or response actions pursuant to 42 U.S.C.
29 §6901 et seq., and remedial actions under 42 U.S.C. §9601 et
30 seq.

31 Sec. 29. **TRANSITION PROVISIONS.**

32 1. Upon repeal of chapter 455G, subchapter I, and the
33 creation of the Iowa tanks fund pursuant to section 455B.472A,
34 as enacted in this Act, all moneys in all funds administered by
35 the Iowa comprehensive petroleum underground storage tank fund

1 board are transferred to the Iowa finance authority for deposit
2 in the Iowa tanks fund. Any moneys credited to any fund
3 administered by the Iowa comprehensive petroleum underground
4 storage tank fund board after July 1, 2017, are transferred to
5 the Iowa finance authority for deposit in the Iowa tanks fund.

6 2. Any rule, regulation, form, order, or directive
7 promulgated by the Iowa comprehensive petroleum underground
8 storage tank fund board as required to administer and enforce
9 the provisions relating to the Iowa comprehensive petroleum
10 underground storage tank fund shall continue in full force and
11 effect until amended, repealed, or supplemented by affirmative
12 action of the department of natural resources and the Iowa
13 finance authority.

14 3. The Iowa comprehensive petroleum underground storage
15 tank fund board shall administratively close or terminate
16 any remaining liabilities, contracts, outstanding claims,
17 payments, or other obligations for open comprehensive petroleum
18 underground storage tank fund claims in existence on June 30,
19 2017.

20 Sec. 30. EFFECTIVE DATE and IMPLEMENTATION. This division
21 of this Act shall take effect July 1, 2017, except that the
22 department of natural resources and the Iowa finance authority
23 may begin implementation prior to July 1, 2017, to the
24 extent necessary to transition to full implementation of the
25 provisions relating to the Iowa tanks fund and repeal of the
26 Iowa comprehensive petroleum underground storage tank fund.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill creates the Iowa tanks fund within the Iowa
31 finance authority (authority), and authorizes the authority to
32 cooperate with the department of natural resources to create,
33 administer, and finance the fund.

34 Under current law, funds collected through the environmental
35 protection charge created in Code chapter 424 are deposited

1 into the statutory allocations fund of the department of
2 transportation and allocated to the Iowa comprehensive
3 petroleum underground storage tank fund and the renewable fuel
4 infrastructure fund. The environmental protection charge
5 expires on June 30, 2016. The bill eliminates transfers from
6 the statutory allocations fund to the Iowa comprehensive
7 petroleum underground storage tank fund and the renewable fuel
8 infrastructure fund effective July 1, 2016.

9 The bill amends the Code in several instances to update the
10 name of the fund used to compensate the replacement of public
11 water supply wells contaminated with petroleum from the Iowa
12 comprehensive petroleum underground storage tank fund to the
13 Iowa tanks fund.

14 The bill creates the Iowa tanks fund financing program
15 within the department of natural resources to be cooperatively
16 administered with the authority. For the fiscal year beginning
17 July 1, 2017, and each fiscal year thereafter, the bill
18 appropriates from the Iowa tanks fund to the department
19 \$200,000 for purposes of supporting the department's protection
20 of the state's groundwater from petroleum releases from leaking
21 underground storage tanks. This appropriation sunsets after
22 five years. The bill allows for cost recovery efforts from
23 potentially liable parties when moneys from the Iowa tanks fund
24 are used during the cleanup of contamination at a tank site.

25 The bill directs the environmental protection commission
26 to adopt rules for prioritizing the use of moneys and
27 eligible expenses from the Iowa tanks fund. The bill includes
28 provisions designed to assure that the Iowa tanks fund will
29 be recognized by the federal government as an approved state
30 account, as the Iowa comprehensive petroleum underground
31 storage tank fund is currently.

32 The bill states that the discretion of the department of
33 natural resources regarding the prioritization of the use of
34 funds in the Iowa tanks fund is not subject to judicial review.

35 The bill repeals the existing Iowa comprehensive petroleum

1 underground storage tank fund and eliminates the Iowa
2 comprehensive petroleum underground storage tank fund board
3 as of July 1, 2017. The bill repeals a local option tax
4 credit available to those who remediate underground storage
5 tanks as of July 1, 2016. The bill provides that claims for
6 releases filed after December 31, 2016, shall not be eligible
7 for payment from the Iowa comprehensive petroleum underground
8 storage tank fund.

9 The bill includes transition provisions providing for
10 the effectiveness of rules, regulations, forms, orders, or
11 directives promulgated by the Iowa comprehensive petroleum
12 underground storage tank fund board until amended, repealed, or
13 supplemented by affirmative action of the department of natural
14 resources and the Iowa finance authority.

15 The portions of the bill related to the transfers from the
16 statutory allocations fund, setting a cut-off date for claims
17 for releases from the Iowa comprehensive petroleum underground
18 storage tank fund, and repealing the tax credit are effective
19 July 1, 2016. The remaining portions of the bill are effective
20 July 1, 2017, except that the department of natural resources
21 and the Iowa finance authority may begin implementation prior
22 to that date.